

VZCZCXRO2894
OO RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHNC #0507/01 1631411
ZNY CCCCC ZZH
O 121411Z JUN 07
FM AMEMBASSY NICOSIA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7910
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE
RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 0872
RUEHBS/USEU BRUSSELS IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 04 NICOSIA 000507

SIPDIS

SIPDIS

DEPARTMENT FOR EUR/SE, EUR/ERA, IO/UNP

E.O. 12958: DECL: 06/07/2017

TAGS: [PREL](#) [PGOV](#) [CY](#) [TU](#)

SUBJECT: "TRNC" PROPERTY COMMISSION GATHERING STEAM

REF: NICOSIA 2010

Classified By: Charge d'Affaires, a.i. Jane Zimmerman, Reasons 1.4 (b),
(d)

¶1. (C) SUMMARY: Established in 2005 as a "local remedy" for Greek Cypriots seeking redress over confiscated property in northern Cyprus, the "TRNC Property Commission" is gaining visibility and, in certain circles, acceptance. Over 180 G/Cs have petitioned the Commission seeking restitution of land, compensation, or property exchange, with 22 cases closed so far. This figure is likely to skyrocket if the European Court of Human Rights (ECHR) declares the Commission an effective local remedy; the ECHR determination could come as early as this year. The institution has proven controversial on both sides of the Green Line. In the north, Turkish Cypriot nationalists decry its "traitorous" decisions, while in the government-controlled area, rank-and-file Greek Cypriots' use of the "illegal" Commission both fosters and is indicative of growing frustration with the RoC's preference for a legalistic, vice political approach, to solving property elements of the Cyprus Problem. G/C leaders and their media allies have not surrendered, however, and are proposing legal restrictions over citizens' access to the T/C institution. Most here predict that, regardless of "illegality" and social pressures, growing numbers of Greek Cypriots will file with the "TRNC Property Commission" as long as it continues to outpace the ECHR in bringing cases to amicable conclusions -- and as long as Turkey keeps footing the bill. END SUMMARY.

Commission Roots in Strasbourg

¶2. (SBU) The "TRNC Property Commission" owes its existence to Greek Cypriot Myra Xenides-Arestis, who owns property in the Turkish military-controlled closed city of Varosha. At the ECHR in 1998, Arestis filed suit against "occupying power" Turkey for violating her rights by denying her access to her property. The ECHR found in her favor in a 2005 preliminary ruling and ordered Turkey -- as the true governing power in the north -- to provide relief to the plaintiff. Further, the ruling stipulated that the "TRNC," while not sovereign, nonetheless represented a "subordinate local authority" of Turkey, capable of providing redress to other G/C plaintiffs. Under the preliminary finding, the ECHR instructed Turkey and the "TRNC" to design and implement an "effective local remedy;" only after future plaintiffs exhausted it could property cases be referred to Strasbourg, the ruling continued (Reftel).

¶3. (SBU) In response, "TRNC" authorities redesigned their Denktash-era Property Commission so that Greek Cypriot claimants could request compensation for, or restitution of,

their property in the north. It made its first offers to G/C applicants in June 2006, just shy of an ECHR-mandated deadline. Six months later, a subsequent ECHR ruling on Arestis accepted "in principle" the "TRNC" entity as a local remedy. Turkey and T/Cs welcomed the decision, which both conferred a degree of indirect legitimacy on the T/C body and might eventually absolve Turkey of responsibility for 1400 pending cases in the ECHR docket. Predictably, Greek Cypriots evinced disgust at the prospect of being forced to seek redress from the "illegal occupation regime."

From a Trickle to a Stream

14. (SBU) Despite stifling governmental and social pressure not to countenance the "illegal state" Commission -- editorials regularly urge G/C landowners' to put their community's interests before their own, despite certain holdings' reaching well into the millions in value -- Greek Cypriots continue to file applications. According to "TRNC" statistics released the week of May 28, 178 G/Cs had deposited paperwork at its offices in north Nicosia, and commissioners had closed over twenty cases, the majority for cash payments.

15. (C) Press coverage of the Commission's activities spiked the same week, as news of Strasbourg's latest ruling on Arestis spurred general interest in property matters. In its May 23 finding, the ECHR denied both Arestis's final appeal and Turkey's as well, ordering Ankara to pay over \$1 million for loss of use, moral damages, and legal costs. Arestis had solicited the Court to rule on the effectiveness of the Commission, which it refused to do. Her attorney, Achilleas

NICOSIA 00000507 002 OF 004

Demetriades, told us June 1 that the ECHR likely will make that determination as it processes any of the 32 G/C property cases currently admitted, but not yet heard (two other, prominent G/C property cases are nearing completion.) Rather than focusing on the positives of the ECHR's Arestis ruling -- Demetriades claimed it set the price for Turkey's continuing occupation of Famagusta at \$50 million per month -- G/C media instead focused on Strasbourg's decision to delay a final finding on the Commission's effectiveness, worried the Court would confer legitimacy to the "TRNC" institution.

16. (SBU) Also contributing to the south's gloom on property were accounts of increasing volumes of inter-communal property transfers occurring directly between buyers and sellers. Not only were Greek Cypriots reducing their holdings in the north with T/Cs and foreign buyers, but G/Cs were buying Turkish Cypriot land in the south -- and evicting G/C "refugees" the government had settled there from 1974 onward. Contrasting with the negativity in the government-controlled areas, property optimism has reigned among T/C opinion leaders. Media have led the charge, incorrectly spinning the ECHR's decision to deny Arestis's appeal by claiming it had confirmed the Commission's effectiveness.

Commissioners Hard at Work

17. (C) Seeking a first-hand picture of operations, Emboffs June 6 called on Chief Commissioner Sumer Erkmen and Commissioner Gongor Gunkan. Four additional G/Cs had filed applications since the spate of press reporting, Erkmen claimed, bringing the total caseload to 182. She provided a breakdown of the Commission's work since its inception:

-- 182 cases accepted;
-- four cases voluntarily withdrawn by plaintiffs for various reasons (to include, inter alia, unhappiness with Commission

offers, societal pressures, decision to file with G/C courts or ECHR);
-- 22 cases closed, in the following manner:
-- 17 owners awarded compensation, with 12 already having received payment, the total exceeding \$20 million)
-- three owners awarded restitution of properties located in Akanthou (2) and Leonarisso.
-- two cases closed with property swaps, i.e., Greek Cypriots agreed to exchange their properties for T/C-owned land in the government-controlled south. One previously had filed a case with the ECHR; under Commission modalities, he must now order the Court to terminate proceedings.

¶8. (C) Erken qualified all 22 as "friendly," final settlements; G/Cs unhappy with Commission decisions had recourse to a higher "TRNC" court, although none so far had taken that decision. Of the restitution awards, likely to spawn more controversy, she ventured the G/C owners were unlikely to relocate to the mostly Turkish settler-inhabited villages. Two, in fact, resided permanently in Greece. Despite their placement in the "closed" category, Erken agreed that consummating the two property exchanges looked difficult, since the Republic of Cyprus Land Registry likely needed to approve both transactions. Said approval would violate the RoC's property guardianship law, which put all T/C-owned properties under the government's sole control until a final settlement of the Cyprus Problem was reached.

¶9. (C) Media portrayals that indicated the ECHR considered the Commission an effective local remedy were indeed premature, Guncan agreed -- editors essentially were reporting what they wanted to believe. That said, Strasbourg's decision to reject Arestis's appeal, combined with the Commission's now-substantial body of work, lent heft to the "TRNC's" argument. Both commissioners were troubled by Greek Cypriot leaders urging their flocks to avoid the T/C institution. "The 'South' government should not and cannot blatantly ignore the rights of individual property owners," Erken argued.

Lots of Hands Involved

¶10. (C) Six commissioners staffed the entity, Guncan revealed. Four worked full-time, while two foreign commissioners, a German and a Swede, visited Cyprus monthly to process casework. Rather than allotting X number of cases per member, every commissioner evaluated every case, she

NICOSIA 00000507 003 OF 004

added. Once the six accepted a G/C application as valid, they forwarded the package to the "TRNC Ministry of Interior" for further processing, to include a title search and land valuation. Slowing the process somewhat was the "MoI's" reluctance to establish a unit dedicated to Commission casework, Guncan admitted. At the conclusion of their investigation, "MoI" staff returned the files to the Commission, and it made a final decision. (Note: other Embassy sources report that Turkish and/or Turkish Cypriot security forces also contribute to Commission decisions, mainly to prevent any property deemed "sensitive" -- those near military facilities, for example -- from restitution to G/C owners.)

¶11. (C) Cases varied greatly in complexity, making it impossible to determine an average processing time. Undoubtedly, however, the Commission worked faster than the ECHR, Erken assured. Should the intake of applications increase, say, in response to Strasbourg at some point declaring the remedy effective, the Commission would require additional support staff (currently numbering six.) Guncan revealed that the pace of work had declined of late; in response to our question whether funding availability determined case throughput, he sheepishly admitted it was a factor. Funds for the Commission came directly from Turkey's

yearly \$450 million assistance to the "TRNC." On compensation cases, the Commission required Greek Cypriot owners to establish bank accounts in the T/C-administered areas, into which the "government" deposited funds. That money could then be transferred to accounts in the south, but only after transiting an intermediate location like London, owing to RoC prohibitions on wire transfers from the "occupied" north.

Not All Cypriots Enamored with Commission

¶12. (C) "They consider us traitors," lamented Gunken, referring to Turkish Cypriot opposition parties UBP and DP. These nationalist-heavy parties considered any effort to return properties to their Greek Cypriot owners a sell-out of the T/C cause. Along with hard-right mouthpiece "Volkan" and a shady amalgamation of anti-G/C pressure groups calling itself the Cyprus Turkish Platform, the nationalists were protesting restitutions, real or not. Elaborating, Erkmen explained that "Volkan" and the Platform had fomented a May 31 demonstration outside a house in Karsiyaka (Vasilia) that the Commission allegedly intended to transfer. Trouble was, no Greek Cypriot had ever filed an application for the property, nor in Vasilia at all. Both commissioners expected more trouble from the right wing in coming weeks.

¶13. (C) Predictably, the RoC response to the Commission has centered on name-calling -- it's alternatively "so-called," "pseudo," and "illegal" -- and on discouraging Greek Cypriots from applying. In regards to the latter, the RoC Interior Minister went so far as to claim in May that Cypriot law prohibited G/Cs from selling their land in the north, an argument that expert Demetriades dismissed. More thoughtful Attorney General Petros Clerides earned his government's ire when he contradicted his counterpart at Interior days later, revealing that prosecutors currently had no intention to target G/C landowners who chose to divest properties in the "occupied" area.

¶14. (SBU) Government and media alike soon renewed their attack on the "TRNC Property Commission," however. On June 5, nationalist-leaning SIGMA TV presented to the Attorney General and House President Dimitris Christofias a list of 67 Greek Cypriots who had applied to the Commission in 2006-07. Associated daily "Simerini" the following day carried a list of 20 applicants (by initials, not full names), their property locations, and respective compensation claims. Immediately the propaganda machine kicked in, tarring applicants to the Commission as traitors for putting personal gain ahead of community interest. "I told him in writing what I thought of him" was how one real estate attorney, speaking to pro-government English-language newspaper "Cyprus Weekly," described his final encounter with a former client who had filed a Commission claim.

¶15. (SBU) Parliament soon piled on. After Christofias had discussed SIGMA's list with party leaders, MPs June 7 approved a resolution that warned compatriots not to play into the hands of the "occupation regime." Turkey had established the Commission only to avoid its obligations under international law, the initiative continued; it called on the government to take steps to ensure Ankara complied

NICOSIA 00000507 004 OF 004

with ECHR judgments and UN Security Council regulations. Subsequently, EUROKO MP Rikkos Erotokritou captured the mood of pro-government MPs in floating a bill in which applicants to the "TRNC" Commission would lose their not-unsubstantial RoC refugee benefits. AG Clerides again provided a useful, cautionary counterpoint, however, reminding G/Cs that SIGMA's list was unverified. Further, Erotokritou's legal thinking was flawed; by claiming that G/Cs had broken the law simply by presenting paperwork before an "illegal" body, the MP had turned into criminals all those Greek Cypriots who presented

their passports to "TRNC officials" in order to cross the Buffer Zone.

Smooth Sailing Now, But What Cometh?

¶16. (C) COMMENT: If its statistics are reliable, the Commission's three restitutions, two exchanges, and 17 compensatory payments represent far more closure for Greek Cypriot property owners than Strasbourg has ever delivered. Basic data extrapolation shows at least one, but likely many G/Cs having cashed million dollar "TRNC" checks, while "Simerini" indicated that one Commission applicant had claimed over \$30 million for property in Morphou. With so many "refugees" deprived of land and thus unable to enjoy the same property boom as G/C landowners in the south, how long can the RoC realistically expect them to put patriotism ahead of pragmatism and ignore an avenue that has delivered riches to some? Regardless of whether the ECHR finds the Commission effective -- and despite Erotokritou's efforts to penalize recourse to it -- we would expect an increasing number of Greek Cypriots to resort to filing claims there. Along similar lines, we predict that Turkey will continue to fund the Commission at a level that allows it to trumpet success, but at nowhere near the level necessary to be truly effective. As we've written numerous times before, there exists only one manner of satisfactorily resolving Cyprus's 100,000-plus property claims: inking a final CyProb settlement.

ZIMMERMAN